

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2004-161140-RMG

REGULATORY PROJECT MANAGER: Rebecca Gruber **Date:** January 12, 2005

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** **Y** **Date:** 1/12/05

At the project site (Y/N) **N** **Date:**

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Ozaukee

Center coordinates of site by latitude & longitude coordinates:

Lat 43.2638 Long -87.9725

Approximate size of site/property (including uplands) in acres

66 acres

Name or waterway of watershed: Milwaukee River (watershed)

2 unnamed wetlands (this info. sheet)

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: **Preliminary X Or Approved**

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

Wetlands B and C are both depressional wetland basins. Wetland B has been characterized as 0.23-acre lowland forest dominated by American elm, green ash, and reed canary grass. Wetland C has been characterized as a 0.09-acre cultivated wetland. There was no vegetation in this area because the field had been plowed. Determination of this area as wetland was determined solely on soils and hydrology.

The two wetlands (B and C) lie entirely within the NW ¼ of Section 11, Township 9N., Range 21E., Ozaukee County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin. In addition, the two wetlands do not display any connection to, nor are they considered adjacent to, any other waterbodies. The nearest “water of the U.S.” to either of these wetlands is wetland A, a depressional wetland associated with an intermittent tributary to the Milwaukee River. However, basins B and C are separated from wetland A by a large expanse of upland. For these reasons, wetlands B and C are considered intrastate, isolated wetlands.

Wetlands B and C are not, nor are they likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetlands lie on private property, with no public access. In addition, the wetlands do not contain fish or shellfish which could be taken and sold. For these reasons, no interstate commerce nexus to these two wetlands has been established.

One other wetland basin occurs on site. Wetland A is considered a “water of the United States” (see paragraph two).